

- The organizational structure of the HBE (whether to house the HBE within an existing state agency or to create a quasi-state or independent nonprofit).<sup>139</sup>
- The board composition.
- The size of the small businesses that are allowed to purchase insurance coverage through the HBE. The ACA allows states to limit coverage in the HBE to employers with 50 or fewer employees from 2014-2016.<sup>140</sup> In 2016, the HBE must be offered to any business with 100 or fewer employees. Beginning in 2017, states have the option of opening up the HBE to larger employers. North Carolina insurance laws currently define a small employer as having 50 or fewer eligible employees, including a self-employed individual.<sup>141</sup>

The North Carolina General Assembly may decide or may authorize the HBE Board and/or Commissioner of Insurance to decide:

- Whether to create or operate one or two HBEs (one for individual coverage, one for small group coverage, or a combined HBE).<sup>142</sup>
- Whether to create one or two separate rating pools as well as the degree to which the individual and small group market should be treated as distinct programs.
- Whether to create regional HBEs or a statewide HBE.
- Whether the HBE should have the authority to set additional standards for qualified health plans in addition to those required under federal law. All HBEs are required to certify health plans that meet certain federal requirements, including offering the essential health benefits package and meeting marketing, network, and quality standards. HBEs are also required to provide comparison information to employers and individual consumers so that they can more easily compare the costs, quality, and provider networks of the different plans. However, states also have the option of imposing additional standards that could further improve value, lower costs, and ensure that consumers have meaningful choice.

**The workgroup that examined these issues recommended that the state create its own HBE rather than leave this responsibility to the federal government.** Some of the advantages of a state created HBE include:

- Maintaining state regulatory authority over a large share of the commercial market.
- Greater ability to mitigate risk selection that can result from different rating and underwriting rules for insurance sold in and outside the HBE.
- Greater ability to coordinate eligibility and enrollment between the HBE, Medicaid, and NC Health Choice.
- Greater ability to promote state health reform strategies and priorities through the HBE (including payment reform and support for patient-centered medical homes) and to coordinate activities with other initiatives in the state.

<sup>139</sup> Patient Protection and Affordable Care Act, Pub L No. 111-148, §1311(b)(2).

<sup>140</sup> Patient Protection and Affordable Care Act, Pub L No. 111-148, §1312(f).

<sup>141</sup> NC Gen Stat §§58-50-110(21a), (22).

<sup>142</sup> Patient Protection and Affordable Care Act, Pub L No. 111-148, §1311(b)(2).